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Endangered Law

Editorial

THE DEATH last Sunday of Gaylord Nelson, the former senator from Wisconsin, is a reminder of the moment in US history 35 years ago when a nation divided by the Vietnam War and racial unrest still managed to come together to protect the environment. Nelson founded Earth Day in 1970 and helped pass the Clean Air and Clean Water laws and the Endangered Species Act, three pillars of environmental stewardship.

All three are now under attack in different ways by an administration and Congress that find elements of the laws too restrictive on industry, real estate developers, and property owners. The House Resources Committee is drawing a bead on the Endangered Species Act with a draft revision that would undercut its goal of restoring to good health species that are near extinction. Under the committee proposal, simply keeping a species from total extinction would be enough; the restoration of a species to a point where it does not need protection would no longer be a goal.

By limiting the definition of conservation in this way, the committee proposal would reduce the amount of land to be designated and protected as critical habitat. Once the purpose of the law is changed to just stop the immediate extinction of a species, the government would not have to protect any of the larger range in which an animal or plant thrived before it became endangered.

The draft bill would also make it easier for federal agencies to get exemptions from the law when they are considering actions that affect the habitat of threatened or endangered species. The Army Corps of Engineers now has to consult with the Fish and Wildlife Service or the National

Marine Fisheries Service before it builds a dam. The Forest Service has to check with Fish and Wildlife before it authorizes a timber sale in an area with listed species. Under the draft bill, federal agencies could be required to forgo species protection if it gets in the way of agency objectives. Under prodding from the Bush administration, Congress has already given the Defense Department freedom to ignore the Endangered Species Act in some circumstances, even though studies by the Government Accountability Office have indicated that the law has not weakened military readiness.

In testimony before the Senate in May, Jamie Rappaport Clark, director of the Fish and Wildlife Service under President Clinton and now an official with Defenders of Wildlife, said that the Endangered Species Act would not be so necessary if the country pursued policies that better conserved open space, forests, streams, and wetlands. But for 32 years the law has brought back from near oblivion in the lower 48 states the bald eagle, the peregrine falcon, and the American alligator. It will no longer serve that purpose if Congress pulls its teeth.